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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,667	10/16/2003	Abraham Glezerman	04291/100M649-US1	2666
7278	7590	06/03/2005	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			NGUYEN, KHAI MINH	
			ART UNIT	PAPER NUMBER
			2687	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/605,667	<b>Applicant(s)</b> GLEZERMAN, ABRAHAM	
	<b>Examiner</b> Khai M Nguyen	<b>Art Unit</b> 2687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-6, 9, 11, 13-19 and 21 is/are rejected.  
7) ☒ Claim(s) 7, 8, 10, 12 and 20 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 16 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/13/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Information Disclosure Statement***

1. The reference listed in the Information disclosure Statement filed on November 13, 2003 have been considered by the examiner (see attached PTO-1449 form or PTO/SB/08A and 08B forms).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **1-6, 9, 11, 13-19, and 21-27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Glezerman (U.S.Pub-20020098877) in view of Chung et al. (U.S.Pub-20030114201).

Regarding claim 1, Glezerman teaches a wireless communications kit for use with a cellular telephone (fig.1-2c), comprising:

a communications headset having a mount (fig.1-2c, paragraph 0016);

a second attachment shaped to secure itself to the mount and including a top portion arranged to attach to a temple member of a pair of glasses (fig.1-2c, paragraph 0016-0017).

Glezeman fails to specifically disclose a first attachment shaped to secure itself to the mount and configured to seat itself about an ear of a user. However, Chung teaches a first attachment shaped to secure itself to the mount and configured to seat itself about an ear of a user (fig.1, 7, abstract, paragraph 0012-0013). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a first attachment shaped to secure itself to the mount and configured to seat itself about an ear of a user as taught by Chung with Glezeman teaching in order to provide the headset to easily worn on a user's ear and to maintained in it's initial stable and comfortable wearing position.

Regarding claim 2, Glezeman and Chung further teaches the wireless communications kit of claim 1, wherein the communications headset includes a housing attached to the mount (abstract), the housing including a microphone (abstract), a speaker (abstract, paragraph 0018, see Chung, fig.1, paragraph 0008), a rechargeable battery and communications circuitry therein (fig.5, paragraph 0028), the microphone and speaker being in communication with the cellular telephone (abstract, see Chung, paragraph 0008, 0045), the communications circuitry having the microphone as an input and the speaker as an output (abstract, paragraph 0018).

Regarding claim 3, Glezeman and Chung further teaches the wireless communications kit of claim 2, wherein the mount comprises a slot through the housing of the communication headset (abstract, see Chung, fig.4, paragraph 0039).

Regarding claim 4, Glezeman and Chung further teaches the wireless communications kit of claim 3, wherein the first and second attachments include a downwardly dependent leg shaped and sized for receipt in the slot (paragraph 0023, see Chung, paragraph 0039-0040).

Regarding claim 5, Glezeman and Chung further teaches the wireless communications kit of claim 4, wherein the leg is frictionally fit within the slot (paragraph 0023, see Chung, paragraph 0039-0041).

Regarding claim 6, Glezeman and Chung further teaches the wireless communications kit of claim 4, wherein the leg includes an upper portion and a lower portion slightly transposed from the upper portion (paragraph 0023, see Chung, paragraph 0039-0041).

Regarding claim 9, Glezeman and Chung further teaches the wireless communications kit of claim 2, wherein the mount includes a magnet secured to the housing (paragraph 0023-0024, see Chung, paragraph 0039-0041).

Regarding claim 11, Glezeman and Chung further teaches the wireless communications kit of claim 2, wherein the mount includes a magnetically permeable portion secured to the housing (paragraph 0023-0024, see Chung, paragraph 0039-0041).

Regarding claim 13, Glezeman and Chung further teaches the wireless communications kit of claim 1, wherein the top portion includes:

a face with serrations to securely engage to a temple member of a pair of glasses (paragraph 0006, 0016); and

a cooperating mechanism operative to move relative to the face between an open and a closed position (paragraph 0018, see Chung, paragraph 0043-0047).

Regarding claim 14, Glezeman and Chung further teaches the wireless communications kit of claim 13, wherein the cooperating mechanism is a clip (fig.2a-2c, paragraph 0021).

Regarding claim 15, Glezeman and Chung further teaches the wireless communications kit of claim 13, wherein the cooperating mechanism is a spring-loaded lever (fig.2a-2c, paragraph 0021).

Regarding claim 16, Glezeman and Chung further teaches the wireless communications kit of claim 13, wherein the cooperating mechanism locks into a closed position to secure the communications headset to the temple member (fig.2a-2c, paragraph 0018, 0021).

Regarding claim 17, Glezeman and Chung further teaches the wireless communications kit of claim 2, wherein the mount comprises a post having a free end extending from the housing of the communication headset (fig.2a-2c, abstract, paragraph 0006, 0018, 0021).

Regarding claim 18, Glezeman and Chung further teaches the wireless communications kit of claim 17, wherein the first and second attachments include a downwardly dependent leg shaped and sized for receipt about the post so as to secure the leg to the post (fig.2a-2c, abstract, paragraph 0006, 0018, 0021, see Chung, paragraph 0011).

Regarding claim 19, Glezeman and Chung further teaches the wireless communications kit of claim 18, wherein the leg is frictionally fit about the post (paragraph 0023, see Chung, paragraph 0039-0041).

Regarding claim 21, Glezeman and Chung further teaches the wireless communications kit of claim 18, wherein the post includes an inner channel having a bent portion for receiving the leg (fig.2a-2c, abstract, paragraph 0006, 0018, 0021, see Chung, paragraph 0011).

Regarding claim 22, Glezeman and Chung further teaches the wireless communications kit of claim 2 further comprising a transceiver connectable to a communications jack on the cellular telephone by wires (paragraph 0016-0018, see Chung, paragraph 0004), the communications circuitry within the communications headset communicating in a wireless manner with the transceiver.

Regarding claim 23, Glezeman and Chung further teaches the wireless communications kit of claim 22, further comprising a fastener on each of the transceiver and the cellular telephone that secures the transceiver and the cellular telephone together (abstract).



Regarding claim 24, Glezeman teaches a wireless communications kit for use with a cellular telephone (fig.1-2c), comprising:

a communications headset having a housing (fig.1-2c, abstract, paragraph 0016);

an eyeglass attachment component arranged to attach to a temple member of a pair of glasses (fig.1-2c, paragraph 0016-0017); and

a magnetic securement arranged to magnetically secure the extension to the eyeglass attachment component (paragraph 0023-0024).

Glezeman fails to specifically disclose a housing attachment component having a lower end secured to the housing and an upper end having an extension. However, Chung teaches a housing attachment component having a lower end secured to the housing and an upper end having an extension (fig.1, 7, abstract, paragraph 0012-0013, 0039-0047). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a housing attachment component having a lower end secured to the housing and an upper end having an extension as taught by Chung with Glezeman teaching in order to provide the headset to easily worn on a user's ear and to maintained in it's initial stable and comfortable wearing position.

Regarding claim 25, Glezeman and Chung further teaches the wireless communication kit of claim 24, wherein the lower end of the housing attachment is hingeably secured to the housing (see Chung, paragraph 0039-0047).

Regarding claim 26, Glezeman and Chung further teaches the wireless communications kit of claim 24, wherein the housing attachment component is permanently affixed to the housing (abstract, see Chung paragraph 0039-0047).

Regarding claim 27, Glezeman teaches a method for wireless communication between a communication headset and a cellular telephone (fig.1-2c, abstract), comprising the steps of:

a securement configured to grasp the temple member of a pair of glasses (fig.1-2c, paragraph 0016-0017);

engaging the attachment to one of a user's ear and the temple member so as to position the communication headset proximate to the user's ea (paragraph 0018-0019);  
and

communicating through the communications headset (abstract).

Glezeman fails to specifically disclose securing an attachment to a mount on the communication headset, the attachment being selected from the group of an ear loop.

However, Chung teaches securing an attachment to a mount on the communication headset, the attachment being selected from the group of an ear loop (fig.1, 7, abstract, paragraph 0012-0013, 0039-0047). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use securing an attachment to a mount on the communication headset, the attachment being selected from the group of an ear loop as taught by Chung with Glezeman teaching in order to provide the headset to easily worn on a user's ear and to maintained in it's initial stable and comfortable wearing position.

#### ***Allowable Subject Matter***

Claims 7-8, 10, 12, 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Citation of Pertinent Prior Art***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Tragardh et al.** (U.S.Pat-4893344) discloses Headset having a post auricle mount and arranged to be worn on a person's outer ear.

**Bae** (U.S.Pub-20040048640) discloses Headset with retractable battery pack.

**Gluz** (U.S.Pat-5335285) discloses Earphone-type speaker assembly.

**Cleveland** (U.S.Pat-318283) discloses Adjustable eyeglass mount for a head set.

**Tong et al.** (U.S.Pub-20030003969) discloses Cellular telephone headset.

**Wingate** (U.S.Pat-5988812) discloses headphone eyeglasses.

**Redmer et al.** (U.S.Pub-20040037444) discloses Lightweight headset for high noise environments.

**Burris et al.** (U.S.Pat-5450496) discloses Communications headset having a detachable receiver capsule and cable pivot.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khai M Nguyen whose telephone number is 571.272.7923. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571.272.7922. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khai Nguyen  
Au: 2687

5/26/2005

  
5/31/05  
LESTER G. KINCAID  
PRIMARY EXAMINER